between a detention order and a restriction order. Therefore a fresh order may be made only to replace the detention order which is revoked and a fresh restriction order or direction may be made only to replace a restriction order or direction revoked. In other words, a fresh direction can be issued only to replace an existing direction which has been revoked.

Looking at the new sub-s (2) of s 6A of the Act as inserted by amendment Act A766 it is quite clear that it merely states that no fresh detention order or fresh restriction order shall be rendered invalid by reason of the absence of any fresh report under sub-s (3) of s 3 and sub-s (4) of s 5 or that the order was made on the same grounds as the previous detention order or restriction order. The new provision was clearly intended to overcome what this court had required to be done in *Poh Chin Kay*,[2] namely, that a detention order or direction *made afresh* would require compliance with the requirements of s 6 of the Act.

Thus the new sub-s (2) of s 6A inserted by Act A766 did not alter the law except in so far as respects the validity of the detention order or restriction in the absence of the reports. The clear distinction between a detention order and a restriction order still remains intact. The appeals are accordingly allowed.

Appeals allowed.

Solicitors: *Shan & Gooi; Karpal Singh & Co.*

Reported by *Prof Ahmad Ibrahim*

Ang Gin Lee v Public Prosecutor

SUPREME COURT (KUCHING) — CRIMINAL APPLICATION NO 07-19-90
HASHIM YEOP A SANI CJ (MALAYA), MOHAMED YUSOFF AND JEMURI SERJAN SCJJ
1 FEBRUARY 1991

Criminal Procedure — Order made by magistrate under s 6(1)(a) of the Drug Dependants (Treatment and Rehabilitation) Act 1983 —Whether there is appeal to High Court — Whether High Court can exercise its powers of revision and review — Order not made in a criminal case or matter — No power of appeal or revision — Criminal Procedure Code (FMS Cap 6), s 307(i) — Subordinate Courts Act 1948, s 85 — Courts of Judicature Act 1964, ss 3, 26, 33 & 35

In this case the applicant and three others had been ordered by a magistrate to undergo treatment and rehabilitation at a drug rehabilitation centre for a period of two years from the date of the order. The order was issued by the magistrate pursuant to s 6(1)(a) of the Drug Dependants (Treatment and Rehabilitation) Act 1983 ('the Act'). The applicant filed an appeal to the High Court against the order of the magistrate. The learned judge dismissed the application. The applicant thereupon applied to refer questions of law for the determination of the Supreme Court under s 66(1) of the Courts of Judicature Act 1964. The questions were:

(1) Whether an order made by a learned magistrate under s 6(1)(a) of the Act is an order which falls within the definition of 'order pronounced by any Magistrate's Court in a criminal case or matter' as described in s 307(i) of the Criminal Procedure Code (FMS Cap 6) and therefore there is a right of appeal against such order as provided for under s 307(i) of the Code.

(2) If the answer to question 1 above is in the negative, then does the High Court have power either under s 35 of the Courts of Judicature Act 1964 or under its inherent jurisdiction to review the decision of the learned magistrate and make such orders as the High Court might have made as it may consider just for the disposal of the appeal.

Held, answering both questions in the negative:

(1) The legislative scheme of s 6 of the Act viewed with the provisions of criminal jurisdiction and appeal in the Subordinate Courts Act 1948 and the Courts of Judicature Act 1964 show quite clearly that the order of the magistrate under s 6 of the Act is not an order appealable to the High Court.

(2) The order made by a magistrate in this case is not an order pronounced by a magistrate's court in a criminal case or matter for the purpose of s 307(i) of the Criminal Procedure Code.

(3) Section 31 of the Courts of Judicature Act 1964, confers on the High Court powers of revision in respect of criminal proceedings and matters in the subordinate courts in accordance with any law for the time being relating to criminal procedure; it is obvious that the answer to question 2 must also be in the negative.

(4) Section 35 of the Courts of Judicature Act 1964 confers general supervisory powers on the High Court over the subordinate courts. This provision is to be construed as no more than providing for jurisdictional basis. Read in the context of ss 31, 32 and 33 of the Act is would seem that s 35 is particularly aimed at providing supervision in criminal and civil proceedings at any stage of the trial in a subordinate court.

[**Bahasa Malaysia summary**

Di dalam kes ini pemohon dan tiga orang lain telah diperintah oleh seorang magistret mejalani rawatan dan pemulihan di dalam Pusat Pemulihan Dadah untuk masa dua tahun dari tarikh perintah itu. Perintah itu dibuat oleh magistret itu dibawah s 6(1)(a) Akta Penagih Dadah (Rawatan dan Pemulihan) 1983 ('Aktu itu'). Pemohon telah membuat permohonan untuk merayu ke Mahkamah Tinggi terhadap perintah magistret itu. Hakim Mahkamah Tinggi telah menolak permohonan itu. Pemohon kemudiannya memohon merujukkan beberapa soalan undang-undang untuk keputusan Mahkamah Agung di bawah s 66(1) Akta Mahkamah Kehakiman 1964. Soalan-soalan itu ialah:

(1) Sama ada perintah yang dibuat oleh yang arif magistret di bawah s 6(1)(a) Akta Penagih Dadah (Rawatan dan Pemulihan) 1983 adalah perintah yang termasuk di dalam takrif perintah dibuat oleh mana-mana mahkamah magistret di dalam sesuatu 'kes atau perkara jenayah' seperti yang disebut di bawah s 307(i) Kanun Acara Jenayah dan oleh kerana itu terdapat hak rayuan terhadap perintah itu seperti yang diperuntukkan di bawah s 307(i) Kanun itu.

(2) Jika jawapan kepada soalan 1 diatas ialah tidak, sama ada Mahkamah Tinggi mempunyai kuasa di bawah s 35 Akta Mahkamah Kehakiman 1964 atau di bawah bidangkuasa sedia adanya untuk mengkaji semula keputusan magistret yang arif itu dan membuat apa-apa perintah yang boleh dibuat oleh Mahkamah Tinggi jika ia memandang patut untuk penyelesaian rayuan itu.

Diputuskan, menjawab kedua-dua soalan secara negatif:

(1) Peraturan perundangan s 6 Akta Penagih Dadah (Rawatan dan Pemulihan) 1983 dipandang bersama peruntukan bidangkuasa jenayah dan rayuan di dalam Akta Mahkamah Rendah 1948 dan Akta Mahkamah Kehakiman 1964 menunjukkan dengan jelas bahawa perintah magistret di bawah s 6 Akta itu bukanlah perintah yang mana boleh dirayu terhadapnya ke Mahkamah Tinggi.

(2) Perintah yang dibuat oleh magistret di dalam kes ini bukan perintah yang dibuat oleh mahkamah magistret di dalam sesuata kes atau perkara jenayah untuk maksud s 307(1) Kanun Acara Jenayah.

(3) Seksyen 31 Akta Mahkamah Kehakiman 1964 memberi kepada Mahkamah Tinggi kuasa ulangkajian mengenai prosiding-prosiding dan perkara-perkara jenayah di mahkamah rendah mengikut mana-mana undang-undang yang sedang berkuatkuasa mengenai acara jenayah. Jelaslah jawapan kepada soalan kedua pun mestilah tidak.

(4) Seksyen 35 Akta Mahkamah Kehakiman 1964 memberi Mahkamah Tinggi kuasa am untuk memberi arahan kepada mahkamah rendah. Peruntukan itu hendaklah ditafsirkan hanya memberi asas bidangkuasa. Apabila dibaca di dalam konteks ss 31, 32 dan 33 Akta itu, nampaknya s 35 adalah ditujukan khas untuk mengadakan pengawasan di dalam prosiding jenayah dan sivil di mana-mana peringkat perbicaraan di sesuatu mahkamah rendah.]

Cases referred to

1 *Maleb bin Su* v *PP* [1984] 1 MLJ 311 (refd)
2 *Sofjan & Anor* v *PP* [1970] 2 MLJ 272 (refd)
3 *PP* v *Chin Keow* [1947] MLJ 55 (refd)
4 *Amand* v *Home Secretary & Anor* [1943] AC 147 (refd)
5 *Clifford and O'Sullivan* [1921] 2 AC 570 (refd)
6 *Hoo Thian Siong* v *PP* [1988] 2 MLJ 401 (refd)
7 *Re Roshidi bin Mohamed* [1988] 2 MLJ 193 (refd)
8 *PP* v *Soh Ted Foh* [1990] 2 MLJ 382 (refd)

Legislation referred to

Courts of Judicature Act 1964 ss 3, 26, 31, 33, 35
Criminal Procedure Code (FMS Cap 6) s 307(i)
Drug Dependants (Treatment and Rehabilitation) Act 1983 s 6(1)(a)
Subordinate Courts Act 1948 s 85

Appeal from: Criminal Appeal No MR 5 of 1990 (High Court, Borneo at Miri)

Lim Swee Huat for the applicant.
Ahmad Zaki bin Hj Hussin (Deputy Public Prosecutor) for the respondent.

Cur Adv Vult

Hashim Yeop A Sani CJ (Malaya) (delivering the judgment of the court): Two questions were posed to us under s 66(1) of the Courts of Judicature Act 1964 as questions of law of public interest which had arisen in the course of an appeal and the determination of which by the Miri High Court had affected the event of the appeal. The questions are:

(1) Whether an order made by a learned magistrate under s 6(1)(a) of the Drug Dependants (Treatment and Rehabilitation) Act 1983 (Act 283) is an order which falls within the definition of 'order pronounced by any Magistrate's Court in a criminal case or matter' as described in s 307(i) of the Criminal Procedure Code (FMS Cap 6) and therefore there is a right of appeal against such order as provided for under s 307(i) of the Code.

(2) If the answer to question 1 above is in the negative, then does the High Court have power either under s 35 of the Courts of Judicature Act 1964 (Act 91) or under its inherent jurisdiction to review the decision of the learned magistrate and make such orders as the High Court might have made as it may consider just for the disposal of the appeal.

The event that brought about the application may be briefly set out as follows. On 19 February 1990 the applicant together with three others were ordered by the Miri magistrate to undergo treatment and rehabilitation at a drug rehabilitation centre at Kuching for a period of two years with effect from the date of the order. The order was issued by the magistrate pursuant to 6(1)(a) of the Drug Dependants (Treatment and Rehabilitation) Act 1983 ['the Act']. Under s 6 of the Act the magistrate may make such an order if he is satisfied that the person has been certified by a government medical practitioner or a registered medical practitioner to be a drug dependant after undergoing the necessary tests under the provisions of that section. Alternatively, the magistrate may if he is satisfied that the person's treatment and rehabilitation may be carried out otherwise than at a rehabilitation centre, order that the person be placed under the supervision of a rehabilitation officer for a period not less than two and not more than three years, and to execute a bond with or without sureties.

On 26 February 1990, the applicant filed a notice of appeal to the Miri High Court against the order of the

magistrate. When the matter came up for hearing before Denis Ong J, the learned judge queried whether the applicant had a right to appeal in such a matter. After hearing arguments the learned judge ruled to the following effect as stated in his written judgment:

(1) an order made under s 6(1)(a) of the Drug Dependants (Treatment and Rehabilitation) Act 1983 is not an order pronounced by a magistrate's court in a criminal case or matter to which the applicant is a party under s 307(i) of the Criminal Procedure Code (FMS Cap 6) and therefore the applicant has no right to appeal; and

(2) it is not possible for the court to exercise its revisionary and supervisory powers under ss 323 and 325 of the Criminal Procedure Code (FMS Cap 6) and s 35 of the Courts of Judicature Act 1964 (Act 91). The learned judge thereupon dismissed the appeal.

It can be observed that the questions framed and posed before this court were based on the said rulings.

In a careful judgment, the learned judge based his rulings on two main grounds. First, the learned judge found that the powers conferred on the magistrate by s 6 of the Act under which the order was made is expressly conferred on the 'Magistrate' as distinct from 'Magistrate's Court' and that s 24(1) of the same Act specifically provides that any power or jurisdiction conferred on a magistrate under ss 4 and 6 (amongst others) over matters specified therein may be exercised by the magistrate at any place whether such matters arose within or outside the local jurisdiction of the magistrate or within or outside the local limits of his court notwithstanding anything to the contrary in the Subordinate Courts Act 1948 or the Criminal Procedure Code (FMS Cap 6) or any other written law.

At a glance this first ground may seem pedantic but a closer examination of provisions of law relating to the jurisdiction of the magistrate shows the merit of this ground.

The criminal jurisdiction of a First Class Magistrate is provided in s 85 of the Subordinate Courts Act 1948. Section 26 of the Courts of Judicature Act 1964 (Act 91) provides that the appellate criminal jurisdiction of the High Court shall consist of 'the hearing of appeals from subordinate courts *according to any law for the time being in force* within the territorial jurisdiction of the High Court.' The term 'subordinate court' is defined in s 3 of Act 91 to mean any inferior court from the decisions of which *by reason of any written law there is a right of appeal to the High Court.*

It would seem to us that the legislative scheme of s 6 of the Act viewed with the provisions of criminal jurisdiction and appeal in the two legislation referred to show quite clearly that the order of the magistrate under s 6 of the Act is not an order appealable to the High Court. This ground alone should dispose of the appeal before the learned judge.

The second ground set out in the judgment of the learned judge is the construction of the words 'criminal case or matter' under s 307(i) of the Criminal Procedure Code. Section 307(i) of the CPC provides that any person who is dissatisfied with any *judgment, sentence or order pronounced by a magistrate's court in a criminal case or matter to which he is a party* may prefer an appeal to the High Court against such judgment, sentence or order.

To satisfy that provision the order must first of all be a final order. This requirement has already been dealt with in *Maleb bin Su* v *PP.*[1] In that case it was held that the order must be a final order in the sense that it is final in effect as in the case of a judgment or sentence. The test for determining the finality of the order is to see whether the order finally disposes of the rights of the parties. That part of the judgment reads as follows.

> First, the question of the right to appeal. Under s 307(i) of the Criminal Procedure Code any person dissatisfied with any judgment, sentence or order pronounced by the magistrate in a criminal case may appeal to the High Court against any such judgment, sentence or order. There is no argument, in my opinion, that the ejusdem generis rule applies to the word 'order' which is preceded by the words 'judgment' and 'sentence'. The order must therefore be a final order in the sense that it is final in effect as in the case of a judgment or a sentence. The test for determining the finality of an order is to see whether the judgment or order finally disposes of the rights of the parties. See discussion of this point in *Mohammed Amin Bros* v *The Dominion of India* AIR 937 1950 FC 77. The order which finally disposes of the rights of the parties should be distinguished from a purely procedural ruling. See also *PP* v *Hoo Cheng Chwen* [1962] MLJ 284 and *PP* v *RK Menon & Anor* [1978] 2 MLJ 152. In the former case Rose CJ of Singapore dealt with an appeal on the admissibility of certain statements and the learned judge held that the ruling of the magistrate was a procedural ruling and therefore not an appealable order. In the latter case Ajaib J also correctly took the view that a ruling on non-compliance with s 129(i)(b) of the Criminal Procedure Code was a procedural and non-appealable ruling.

There is no doubt in the present case that the order has a final effect and disposes of the right of the applicant. But that is not the end of the matter. To satisfy s 307(i) of the Criminal Procedure Code it is also necessary to answer the equally crucial question — was the order made in a criminal case or matter?

In this regard the learned judge said he was not assisted nor was he able to find a local case on the question. As a result of his research he found the Court of Appeal case of *Sofjan & Anor* v *PP.*[2] In that case the Court of Appeal, Singapore had to consider whether the order made by the district court after an enquiry under

s 11(2) of the Control of Imports and Exports Ordinance was an order pronounced by a district court in a criminal case or matter. Section 290(1) of the Singapore Criminal Procedure Code was in pari materia with s 307(i) of our Criminal Procedure Code. The approach taken by the Singapore Court of Criminal Appeal was to consider whether the proceedings before the district court were criminal in their nature and form and held that such proceedings were not, and consequently not a criminal case or matter within the meaning of s 290(1) of the Singapore Criminal Procedure Code.

We have in fact another local case quite helpful on the same question, that is the case of *PP* v *Chin Keow*.[3] In that case Justice Spenser-Wilkinson sat in appellate criminal jurisdiction and relied on *Amand* v *Home Secretary & Anor*[4] for the authority that if a cause or matter is one which, carried to its conclusion, might result in the conviction of the person charged and in a sentence of some punishment it is a criminal cause or matter.

Amand[4] itself relied on *Clifford and O'Sullivan*[5] where Viscount Cave laid down two conditions to be satisfied in order that a matter may be a criminal cause or matter. The two conditions laid down by Viscount Cave are firstly, it must involve the consideration of some charge of crime, that is, of an offence against the public law; and secondly, the charge must be preferred or about to be preferred before some court or judicial tribunal having or claiming jurisdiction to impose punishment for the offence.

In *Amand*[4] Viscount Simon LC in the House of Lords after referring to Viscount Cave's two conditions said at p 156 as follows:

> Applying these tests, I cannot doubt that the appellant's application for the writ and the decision of the Divisional Court refusing it were 'in a criminal cause or matter'. He has been apprehended by the police on suspicion of being a deserter or absentee without leave from the Dutch forces, and is being brought before a court of summary jurisdiction on these charges by a procedure analogous to that of s 154 of the Army Act, so that the court, if 'satisfied', may deal with him as provided in sub-s 4 of that section.

Looking at the provisions relating to jurisdiction of the magistrate and the appeal provisions provided by our law we agree with the learned judge that the order made by the magistrate in this case is not an order pronounced by a magistrate's court in a criminal case or matter for the purpose of s 307(i) of the Criminal Procedure Code. Our answer to question 1 is therefore in the negative.

Question 2 is concerned with the powers of the learned judge under ss 323 and 325 of the Criminal Procedure Code. Section 31 of the Courts of Judicature Act 1964 confers on the High Court powers of revision in respect of *criminal proceedings and matters* in the subordinate courts *in accordance with any law for the time being relating to criminal procedure.*

It is obvious from the language of these provisions that our answer to question 2 must also be in the negative.

We appreciate that the provision of s 6 of the Act, is penal in character in the sense that a person can be ordered to reside in a rehabilitation centre for two years to undergo treatment probably against his will. At the same time we also appreciate that it is a provision designed for the rehabilitation of drug dependants. It is a social legislation of sort. But we must not forget however that the same legislation confers summary powers on the magistrate and can seriously affect the freedom of an individual. It was perhaps realizing this aspect of the legislation that the learned judge in this case suggested that if the applicant was dissatisfied with the order of the magistrate he should look elsewhere for reliefs. In other words if any person is dissatisfied with the order of the magistrate under that provision of the law because of some irregularity he should have access to the High Court but not through the appeal process. This judgment merely lays down the law that according to existing provisions of the law there is no appeal to or revision by the High Court from the order of the magistrate under s 6 of the Act.

Section 35 of the Courts of Judicature Act 1964 confers general supervisory powers on the High Court over the subordinate courts. This provision is to be construed as no more than providing for jurisdictional basis. Read in the context of ss 31, 32 and 33 of that Act it would seem to us that s 35 is particularly aimed at providing supervision in criminal or civil proceeding at any stage of the trial in a subordinate court.

To complete the record it may be noted that there are at least three reported cases brought to the High Courts by persons affected by an order under s 6 of the Act.

One is *Hoo Thian Siong* v *PP*[6] which was an application for habeas corpus challenging the order of the magistrate on the ground that he was not represented by counsel at the hearing. The learned judge there, Mustapha Hussain J, ruled that it was encumbent on the learned magistrate to give the applicant the opportunity of making a representation.

There was also an application made to the High Court in Kangar in *Re Roshidi bin Mohamed*.[7] There the applicant contended that the magistrate did not comply with the various subsections of s 6 of the Act. The learned judge, Mohamed Ariff J, held that in the absence of the record of proceedings kept by the learned magistrate it was impossible to hold that the mandatory requirements of the law had been complied with and granted the application.

Finally, there is *PP* v *Soh Ted Foh*.[8] In that case the learned magistrate, after hearing objection from counsel, released the subject. In making the said order of release the learned magistrate indicated that she would be referring the case to the High Court purporting to do so under s 323 of the Criminal Procedure Code to determine the correctness of her order. Subsequently the record of the proceedings and her written ruling were sent to the High Court. The learned judge (Haidar J) examined the record of the proceedings and dealt with the interpretation of s 6 of the Act without first determining his jurisdiction to do so.

Order accordingly

Solicitors: *SH Lim & Co.*

Reported by *Prof Ahmad Ibrahim*

Sia Kwong Sang v Inspector General of Police & Ors and other appeals

SUPREME COURT (KUALA LUMPUR) — CRIMINAL APPEAL NOS 05-75-90, 05-76-90, 05-77-90, 05-78-90, 05-79-90, 05-80-90, 05-81-90, 05-82-90 AND 05-83-90
ABDUL HAMID OMAR LP, HASHIM YEOP A SANI CJ (MALAYA) AND JEMURI SERJAN SCJ
31 JANUARY 1991

Preventive Detention — Detention orders held ineffective by Supreme Court — Amendment Act to validate orders — Whether amendment Act valid and has legislative effect — Dangerous Drugs (Special Preventive Measures) (Amendment) Act 1990, s 5

Constitutional Law — Amendment of legislation — Methods — Indirect amendment — Validity and legislative effect

The appellants in these appeals were detained under detention orders of the kind held by the Supreme Court to be defective in *Hong Siew Sin* v *Menteri Hal Ehwal Dalam Negeri & Ors*.[1] After that decision retrospective legislation was introduced and passed to render valid orders of the kind so held to be defective. The legislation was the Dangerous Drugs (Special Preventive Measures) (Amendment) Act 1990. The sole issue is whether s 5 of the amendment Act is valid and has legislative effect. The High Court had dismissed applications for habeas corpus and the appellants appealed. It was argued that s 5 of the amendment Act had not directly amended the parent Act and was therefore invalid and has no legislative effect.

Held, dismissing the appeals:

(1) Section 5 of the amending Act has adopted the referential or indirect method of amending the the statute. For the purpose of validating an act done under a statute the referential or independent method of amendment is the most appropriate method.

(2) The validity of s 5 of the amendment Act has already been recognized by the Supreme Court in *Poh Chin Kay* v *Menteri Hal Ehwal Dalam Negeri*.[2] Section 5 of the amendment Act is valid and has legislative effect.

[Bahasa Malaysia summary

Perayu-perayu di dalam kes-kes rayuan ini telah ditahan di bawah perintah tahanan sama seperti perintah yang telah diputuskan cacat dan taksah oleh Mahkamah Agung di dalam kes *Hong Siew Sin* lwn *Menteri Hal Ehwal Dalam Negeri & Lain-Lain*.[1] Selepas keputusan itu dibuat, perundangan kebelakangan telah dibuat dan diluluskan untuk mengesahkan perintah-perintah seperti yang telah diputuskan cacat itu. Perundangan itu ialah Akta Dadah Berbahaya (Langkah-Langkah Pencegahan Khas) (Pindaan) 1990.

Isu tunggal di dalam kes ini ialah sama ada s 5 Akta Pindaan itu sah dan mempunyai kesan perundangan. Telah dihujjahkan bahawa Akta Pindaan itu tidak secara langsung meminda Akta pokok yang berkenaan dan oleh kerana itu ia adalah tak sah dan tidak mempunyai kesan perundangan.

Diputuskan, menolak rayuan-rayuan itu:

(1) Seksyen 5 Akta Pindaan itu telah menggunakan cara pindaan rujukan dan tak langsung untuk meminda statut itu. Untuk tujuan mengesahkan tindakan yang telah diambil dibawah sesuatu statut, cara rujukan atau bebas itu adalah cara yang sangat sesuai.

(2) Kesahan s 5 Akta Pindaan itu telah pun diiktiraf oleh Mahkamah Agung di dalam kes *Poh Chin Kay* lwn *Menteri Hal Ehwal Dalam Negeri*.[2] Seksyen 5 itu adalah sah dan mempunyai kesan perundangan.]

Cases referred to

1 *Hong Siew Sin & Anor* v *Menteri Hal Ehwal Dalam Negeri, Malaysia & Anor* [1990] 2 MLJ 90 (refd)
2 *Poh Chin Kay* v *Menteri Hal Ehwal Dalam Negeri, Malaysia* [1990] 2 MLJ 297 (refd)

Legislation referred to

Dangerous Drugs (Special Preventive Measures) (Amendment) Act 1990 s 5

Appeal from: Muar Criminal Application Nos 44-29-90, 44-110-90, 44-4-90, 44-105-90, 44-106-90, 44-107-90, 44-108-90, 44-111-90, 44-116-90 (High Court, Muar)

Karpal Singh for the appellants in Criminal Appeal Nos 05-75-90, 05-76-90 and 05-77-90.

V Shanmugam for the appellants in Criminal Appeal Nos 05-78-90, 05-79-90, 05-80-90, 05-81-90, 05-82-90 and 05-83-90.

Suriyadi bin Halim Omar (Deputy Public Prosecutor) (*Noorbahari bin Baharuddin* and *Jalaldin bin Hussain* with him) for the respondents.

Cur Adv Vult

Hashim Yeop A Sani CJ (Malaya) (delivering the judgment of the court): All the appellants in these appeals were detained under detention orders of the kind held by this court to be defective. See *Hong Siew Sin & Anor* v *Menteri Hal Ehwal Dalam Negeri*.[1]

After the decision was handed down by this court, retrospective legislation was then introduced and passed by Parliament to render valid orders of the kind held to be defective as aforesaid. That legislation was the Dangerous Drugs (Special Preventive Measures) (Amendment) Act 1990 ('the amendment Act').